

## HOUSE BILL No. 1039

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### DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 35-43-5.

**Synopsis:** Defrauding drug or alcohol screening tests. Makes it a Class B misdemeanor for an incarcerated person or a person under court supervision to defraud, or to possess a device or substance intended to be used to defraud, a drug or alcohol screening test.

**Effective:** July 1, 2005.

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**Ayres, Ulmer, Lawson L, Foley**

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January 4, 2005, read first time and referred to Committee on Courts and Criminal Code.

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Introduced

First Regular Session 114th General Assembly (2005)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2004 Regular Session of the General Assembly.

## HOUSE BILL No. 1039

A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

*Be it enacted by the General Assembly of the State of Indiana:*

1 SECTION 1. IC 35-43-5-1 IS AMENDED TO READ AS  
2 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. (a) The definitions  
3 set forth in this section apply throughout this chapter.

4 (b) "Claim statement" means an insurance policy, a document, or a  
5 statement made in support of or in opposition to a claim for payment  
6 or other benefit under an insurance policy, or other evidence of  
7 expense, injury, or loss. The term includes statements made orally, in  
8 writing, or as a computer generated document, including the following:

- 9 (1) An account.  
10 (2) A bill for services.  
11 (3) A bill of lading.  
12 (4) A claim.  
13 (5) A diagnosis.  
14 (6) An estimate of property damages.  
15 (7) A hospital record.  
16 (8) An invoice.  
17 (9) A notice.



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(10) A proof of loss.

(11) A receipt for payment.

(12) A physician's records.

(13) A prescription.

(14) A statement.

(15) A test result.

(16) X-rays.

(c) "Coin machine" means a coin box, vending machine, or other mechanical or electronic device or receptacle designed:

(1) to receive a coin, bill, or token made for that purpose; and

(2) in return for the insertion or deposit of a coin, bill, or token automatically:

(A) to offer, provide, or assist in providing; or

(B) to permit the acquisition of;

some property.

(d) "Credit card" means an instrument or device (whether known as a credit card or charge plate, or by any other name) issued by an issuer for use by or on behalf of the credit card holder in obtaining property.

(e) "Credit card holder" means the person to whom or for whose benefit the credit card is issued by an issuer.

(f) "Customer" means a person who receives or has contracted for a utility service.

**(g) "Drug or alcohol screening test" means a test that:**

**(1) is used to determine the presence of alcohol, a controlled substance, or a drug in a person's bodily substance; and**

**(2) is administered in the course of monitoring a person who is:**

**(A) incarcerated in a prison or jail;**

**(B) on probation or parole; or**

**(C) participating in a court established or court ordered alcohol or drug treatment program.**

~~(g)~~ **(h)** "Entrusted" means held in a fiduciary capacity or placed in charge of a person engaged in the business of transporting, storing, lending on, or otherwise holding property of others.

~~(h)~~ **(i)** "Identifying information" means information that identifies an individual, including an individual's:

(1) name, address, date of birth, place of employment, employer identification number, mother's maiden name, Social Security number, or any identification number issued by a governmental entity;

(2) unique biometric data, including the individual's fingerprint, voice print, or retina or iris image;

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(3) unique electronic identification number, address, or routing code;

(4) telecommunication identifying information; or

(5) telecommunication access device, including a card, a plate, a code, a telephone number, an account number, a personal identification number, an electronic serial number, a mobile identification number, or another telecommunications service or device or means of account access that may be used to:

(A) obtain money, goods, services, or any other thing of value;

or

(B) initiate a transfer of funds.

(j) "Insurance policy" includes the following:

(1) An insurance policy.

(2) A contract with a health maintenance organization (as defined in IC 27-13-1-19).

(3) A written agreement entered into under IC 27-1-25.

(k) "Insurer" has the meaning set forth in IC 27-1-2-3(x).

(l) "Manufacturer" means a person who manufactures a recording. The term does not include a person who manufactures a medium upon which sounds or visual images can be recorded or stored.

(m) "Make" means to draw, prepare, complete, counterfeit, copy or otherwise reproduce, or alter any written instrument in whole or in part.

(n) "Metering device" means a mechanism or system used by a utility to measure or record the quantity of services received by a customer.

(o) "Public relief or assistance" means any payment made, service rendered, hospitalization provided, or other benefit extended to a person by a governmental entity from public funds and includes ~~poor relief~~, **township assistance**, food stamps, direct relief, unemployment compensation, and any other form of support or aid.

(p) "Recording" means a tangible medium upon which sounds or visual images are recorded or stored. The term includes the following:

(1) An original:

(A) phonograph record;

(B) compact disc;

(C) wire;

(D) tape;

(E) audio cassette;

(F) video cassette; or

(G) film.

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(2) Any other medium on which sounds or visual images are or can be recorded or otherwise stored.

(3) A copy or reproduction of an item in subdivision (1) or (2) that duplicates an original recording in whole or in part.

~~(p)~~ (q) "Slug" means an article or object that is capable of being deposited in a coin machine as an improper substitute for a genuine coin, bill, or token.

~~(r)~~ (r) "Utility" means a person who owns or operates, for public use, any plant, equipment, property, franchise, or license for the production, storage, transmission, sale, or delivery of electricity, water, steam, telecommunications, information, or gas.

~~(s)~~ (s) "Written instrument" means a paper, a document, or other instrument containing written matter and includes money, coins, tokens, stamps, seals, credit cards, badges, trademarks, medals, retail sales receipts, labels or markings (including a universal product code (UPC) or another product identification code), or other objects or symbols of value, right, privilege, or identification.

SECTION 2. IC 35-43-5-18 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 18. A person who knowingly or intentionally possesses a:**

(1) device; or

(2) substance;

**designed or intended to be used to defraud a drug or alcohol screening test commits possession of a device or substance used to defraud a drug or alcohol screening test, a Class B misdemeanor.**

SECTION 3. IC 35-43-5-19 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 19. A person who defrauds or attempts to defraud a drug or alcohol screening test by:**

(1) using a:

(A) device; or

(B) substance;

(2) substituting a human bodily substance that is tested in a drug or alcohol screening test; or

(3) adulterating a substance used in a drug or alcohol screening test;

**commits defrauding a drug or alcohol screening test, a Class B misdemeanor.**

SECTION 4. [EFFECTIVE JULY 1, 2005] **IC 35-43-5-18 and IC 35-43-5-19, both as added by this act, apply only to offenses committed after June 30, 2005.**

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